

REMARKS

This application has been carefully reviewed in view of the current Office Action in which claims 1-41 were rejected as anticipated by the Fritsch reference. Applicants respectfully request reconsideration in view of the following:

REGARDING THE ANTICIPATION REJECTIONS

Applicant has disclosed and claimed a system in which a first network presence provides information concerning downloadable digital data as well as physical media for purchase by the consumer. In certain embodiments, the consumer may select the downloadable data for purchase at which point the consumer is automatically linked to a second presence to complete the download transaction.¹

The Fritsch reference fails to meet each and every claim feature as required to establish anticipation. Consider, by way of example and not limitation, claim 1 as originally submitted (without amendment). Claim 1 as originally submitted calls for *"maintaining a first presence on the electronic network to which a consumer may connect; transmitting a first page from the first presence to the consumer over the electronic network, the first page including information concerning the purchasable content; receiving a command from the consumer over the electronic network indicating that the consumer wishes the transaction for the purchasable content; and automatically linking the consumer to a second presence on the electronic network in response to the command such that a second page is transmitted from the second presence to the consumer over the electronic network."* (Emphasis added) This language clearly indicates that the user must be automatically linked to a second presence from the first presence in order to complete the transaction. The undersigned

¹It is noted that the purchase of physical media is covered in the claims of co-pending and commonly owned U.S. patent application S/N 09/836,633 filed 4/17/2001. It is further noted that additional aspects of this invention are covered in co-pending application S/N 09/836,631, also filed on 4/17/2001 and awaiting first action. An Information Disclosure Statement is being submitted concurrently herewith listing all known art including that which was cited in the first listed co-pending application. It is respectfully requested that the Examiner consult and coordinate with the Examiners of these co-pending applications to assure that the best art known is brought forth in each case.

is unable to find a teaching of this automatic linking in the Fritsch reference.

The Examiner's attention is also directed to paragraph 18 of the specification, where the term "presence" is defined. It appears that the Fritsch reference uses a single Internet presence to carry out the transactions. The Examiner only offers Figure 1E of Fritsch to establish the presence of the automatic linking and states "*Figure 1E illustrates in detail the shopping basket containing the desired items*". It is respectfully submitted that no such language or limitation exists in claim 1 and that the Office Action has failed to establish anticipation. Similar arguments are applicable to all claims in the present application.

In view of the above, it is believed clear that the Fritsch reference falls short of meeting all of the claim features as required to establish anticipation. Accordingly, reconsideration and allowance is respectfully requested.

The undersigned additionally notes that many other distinctions exist between the cited references and the invention as claimed. However, in view of the clear deficiencies in the art as pointed out above, further discussion of these deficiencies is believed to be unnecessary at this time; failure to address each point raised in the Office Action should accordingly not be viewed as accession to the Examiner's position.

THE CLAIM AMENDMENTS

The claims have been amended to incorporate the feature that the purchasable content comprises both the downloadable data and physical media. This was previously the subject of the cancelled claims. The claims were further amended to clarify that the actual transaction involves certain of this purchasable content (not all of the content). The claims have been further amended to provide actions based upon a decision as to whether the transaction involves downloadable data by way of clarification. Additionally, the claims have been amended to substitute the clearly open-ended language "comprises" in place of the terms "is" and "are" to assure an open ended interpretation of these terms. These

additional claim features are not believed necessary to distinguish over the cited art, but provide enhanced clarity of the claims. New claims are also submitted for the Examiner's consideration.


As is clear from the above, no amendment made herein was related to the statutory requirements of patentability and no amendment made was for the purpose of narrowing the scope of any claim unless an argument has been made herein that such amendment has been made to distinguish over a particular reference or combination of references.

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date.

REQUEST FOR INTERVIEW

The undersigned respectfully requests that the Examiner contact him after review of this response for an interview at his convenience prior to issuance of another action, in order to assure that the Applicants' position is fully understood.

Respectfully submitted,


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